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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,753	10/17/2003	Kelly J. Reasoner	10012665-4	1979
7590	04/10/2006			EXAMINER DINH, TAN X
			ART UNIT 2627	PAPER NUMBER

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/688,753	REASONER ET AL.	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 February 2006.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

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1) The amendment filed 2/02/2006 is acknowledged.

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4) Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over INOUE (5,940,354).

The rejection of claims 1-25 in previously office action is repeated herein.

5) Applicant's arguments filed 2/02/2006 have been fully considered but they are not persuasive.

Applicant states that " Geiger does not provide the requisite suggestion to modify Inoue to achieve the claimed subject matter ... Thus, if Inoue were to be modified based on the teachings of Geiger, then the Inoue mechanism 70 (see Fig. 7 of Inoue) would be modified to emit light to an external structure to detect whether the cartridge is located in the external structure (not whether the cartridge is located in the accessor 28). In view of the foregoing, it is respectfully submitted that clearly, no motivation or suggestion existed to modify Inoue. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 1 ". This is not found persuasive.

The light detecting of GEIGER which capable of detecting the reflecting light from a cartridge is just an example of light detecting device. It is not necessary to modify the light detecting unit in INOUE by arranging light emitting to emit light to an external structure to detect whether the cartridge is located in the external structure (not whether the cartridge is located in the accessor 28) as applicant's argued. In fact, the technique of detecting the reflected light from a cartridge wherein the light emitter and receiver are located inside a data cartridge receiving for detecting

the reflecting light from a cartridge and identifies the present or absent of the cartridge is old and widely used in the art. Applicant is directed to the invention of BURNSIDE et al (US 6,297,923), figure 8a, light detectors 21 and 22, THOMAS, III (US 5,638,228 ), figures 4 and 5, light detector 20 includes light source 21 and light receiver 22 or PADDEN et al (US 6,587,297), figure 8, light emitter 21 and light receiver 22. Based on these teaching, someone within the level of skill in the art would easily to modify the light detector of INOUE's data cartridge detector by mounting the light detector on data cartridge receiving for detecting the reflecting light as claimed in claims 1,6 and 7.

Claims 10 and 15 are broadly recited a method for detecting a signal reflected from a picker assembly without the detail locations of light detector, thus, claims 10 and 15 are rejected with the same reason set forth in claims 1,6 and 7 above.

The dependent claims are rejected with the same reasons set forth in previously Office action.

6) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

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mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

( see form PTO-892 attached herein ).

Applicant is reminded that in amending in response to a rejection of claims ( if the rejection involves with any applicable arts ) the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN Xuan DINH whose telephone number is (571) 727-7586. The examiner can normally be reached on MONDAY to FRIDAY from 8:00AM to 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) .



**TAN DINH**  
**PRIMARY EXAMINER**  
April 6, 2006